

**75-7-413 Cy pres.**

- (1) Except as otherwise provided in Subsection (2), if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:
  - (a) the trust does not fail, in whole or in part;
  - (b) the trust property does not revert to the settlor or the settlor's successors in interest; and
  - (c) the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.
- (2) A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under Subsection (1) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:
  - (a) the trust property is to revert to the settlor and the settlor is still living; or
  - (b) fewer than 21 years have elapsed since the date of the trust's creation.

Enacted by Chapter 89, 2004 General Session